

MINUTES OF THE MEETING OF
THE BOARD OF COSMETOLOGY, ELECTROLOGY, ESTHETICS,
NAIL TECHNOLOGY, AND BODY ART

November 2, 2015

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chairperson, Lyra Faltys, at 10:30 a.m., Lower Level Conference Room B, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law.

The following members answered roll call:

Bridget Anderson	-	Member
Vicki Criswell	-	Member
Lyra Faltys	-	Chairperson
Melanie Judkins	-	Member
Jason Lassek	-	Secretary
Ruth Lucas	-	Member
David Newson	-	Member
Marie Nordboe	-	Member
Becky Pettigrew	-	Vice-Chairperson
Pamela Rowland	-	Member

Members Absent:

Pamela Foran	-	Member (arrived 10:31 a.m.)
Lisa Pfeil	-	Member

Others Present:

Ed Vierk, Assistant Attorney General
Dennis Scott, Investigator
Russ Fosler, Investigator
Kris Chiles, Program Manager, Licensure Unit
Nancy Herdman, Health Licensing Coordinator, Licensure Unit

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Lucas moved, seconded by Judkins, to adopt the agenda. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Judkins, Lassek, Lucas, Newson, Nordboe, Pettigrew, Rowland (10). Voting nay: None (0). Absent: Foran, Pfeil (2). Motion carried.

10:31 a.m.	-	Foran entered meeting
10:32 a.m.	-	Anna Harrison, Compliance Monitor, entered the meeting

3. APPROVAL OF MINUTES (9-14-15, 10-5-15 conference call)

MOTION: Rowland moved, seconded by Criswell, to approve the minutes of 9-14-15. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Nordboe, Pettigrew, Rowland (11). Voting nay: None (0). Abstain: None (0). Absent: Pfeil (1). Motion carried.

MOTION: Rowland moved, seconded by Criswell, to approve the conference call minutes of 10-5-15. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Nordboe, Rowland (10). Voting nay: None (0). Abstain: Pettigrew (1). Absent: Pfeil (1). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Pettigrew moved, seconded by Nordboe, to enter into closed session at 10:36 a.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Nordboe, Pettigrew, Rowland (11). Voting nay: None (0). Absent: Pfeil (1). Motion carried.

11:00 a.m. - Pettigrew departed meeting (conflict)
11:06 a.m. - Scott and Fosler departed meeting
Pettigrew entered meeting
11:40 a.m. - Foran departed meeting
11:44 a.m. - Foran entered meeting

MOTION: Pettigrew moved, seconded by Nordboe, to return to open session at 11:44 a.m. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Nordboe, Pettigrew, Rowland (11). Voting nay: None (0). Absent: Pfeil (1). Motion carried.

11:45 a.m. - Break
Harrison departed meeting
11:54 a.m. - Meeting resumed

5. APPLICATION REVIEW AND RECOMMENDATIONS – OPEN SESSION

a. Initial Licensure/Reinstatement/Convictions/Administrative Penalties

Mary Sibbernsen - Cosmetologist

MOTION: Newson moved, seconded by Judkins, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Pettigrew, Rowland (10). Voting nay: Nordboe (1). Abstain: None (0). Absent: Pfeil (1). Motion carried.

Brittany Glup - Cosmetologist

MOTION: Nordboe moved, seconded by Pettigrew, to defer and request additional information. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Nordboe, Pettigrew, Rowland (11). Voting nay: None (0). Abstain: None (0). Absent: Pfeil (1). Motion carried.

Ashley Heiser - Cosmetologist

MOTION: Lucas moved, seconded by Newson, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lassek, Lucas, Newson, Nordboe, Pettigrew, Rowland (11). Voting nay: None (0). Abstain: None (0). Absent: Pfeil (1). Motion carried.

Andrea Ward – Cosmetologist Reinstatement

MOTION: Nordboe moved, seconded by Pettigrew, to defer and request additional information. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lucas, Nordboe, Pettigrew, Rowland (9). Voting nay: Lassek, Newson (2). Abstain: None (0). Absent: Pfeil (1). Motion carried.

Sarah MacGregor - Esthetician

MOTION: Pettigrew moved, seconded by Lucas, to recommend offering a Probationary license to run concurrent with cosmetology license probation with the same terms and conditions. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Judkins, Lucas, Newson, Nordboe, Pettigrew, Rowland (10). Voting nay: Lassek (1). Abstain: None (0). Absent: Pfeil (1). Motion carried.

12:10 p.m. - Teresa Hampton, Department attorney, entered meeting

6. Unfinished Business

a. Review Draft Revisions to Conviction Guidelines (Application Reviews)

The Board reviewed the draft document. Under MIP in the first column, it was changed from "1 MIP within 5 yrs prior to application" to "2 MIP's within 5 yrs prior to application."

Lucas asked why infractions were listed on application review sheets because applicants are only required to report misdemeanors and felonies and she felt listing infractions influenced Board members when making a recommendation. Chiles responded that the Board looks at good character and that infractions may have an impact in making a decision regarding good character. Hampton commented that convictions with intent could relate to character.

The Board agreed to start using the revised Guidelines effective immediately. Chiles stated she would provide each member with a finalized copy of the Guidelines.

7. NEW BUSINESS

a. Correspondence/Issues

Chiles read a letter from Pfeil (public member of the Board) in which she tendered her resignation.

Chiles reported she had received a news alert regarding a woman in Iowa who was suing the Iowa Board of Cosmetology over requiring a license to do hair braiding. Lassek commented that this was becoming more common as those doing hair braiding have expressed wanting either a separate certificate or not be required to have a license.

12:37 p.m. - Break
12:44 p.m. - Meeting resumed

b. Body Art, Cosmetology, Electrology, Esthetics, Nail Technology, Indoor Tanning Facilities

Body Art – Judkins asked if anyone had heard of microplaning and whether it was a form of tattooing. It is a process where a blade is used to cut the eyebrow and then color is placed in the opening. Judkins questioned that since the color was not being inserted whether it was tattooing. The statutes for tattooing and permanent color technician were reviewed and neither define how the color is placed under the skin. The Board's position, based on the information provided, is that microplaning falls within the definition of body art (this advisory opinion is for informational purposes only and is non-binding).

Cosmetology – Lassek had nothing to report.

Electrology – Foran had nothing to report. .

Esthetics – Criswell had nothing to report.

Nail Technology – Pettigrew had nothing to report.

Indoor Tanning Facilities – Pettigrew distributed materials from the convention. She reported tanning beds were considered class II medical devices. She stated the FDA backed down on some of the regulations they were proposing. Pettigrew reported she completed the certification class and attended other interesting sessions. In one session they talked about reminding clients that they were not doctors and in another talked about the importance of wearing goggles even if the law does not require it.

1:00 p.m. - Judkins departed meeting

1:04 p.m. - Judkins entered meeting

c. Schedule Meeting Dates for 2016

The Board agreed to continue meeting the 1st Monday of every month unless it fell on a holiday and then it would be the following Monday. They will start with January as a regular meeting, February as a conference call, etc.

d. Other

There was no information to report.

8. REPORTS/UPDATES

a. National-Interstate Council of State Boards of Cosmetology

Faltys reported the next regional meeting was tentatively scheduled for Nashville, TN the first weekend in March or April and the next convention would be in Tampa Bay, Florida. Faltys stated she was now on 3 committees.

b. Disciplinary/Non-Disciplinary Action Report

Chiles distributed the report for the time period since January 2015.

c. Statistics: Examinations / Renewal / Licensing / Administrative Penalties

Chiles reported the following statistics:

Salon Renewal Numbers:

Esthetic	13 did not renew
Nail Technology	71 did not renew
Cosmetology	1037 renewed on-line, 452 did not renew, 1727 currently active

Licensure Numbers:

Cosmetology Salon	1795
Nail Technology Salon	119
Cosmetologist	8684
Cosmetology Instructor	170
Cosmetology Salon Consideration Certificate	68
Electrologist	17
Esthetician	839
Esthetician Instructor	19
Esthetics Salon	32
Esthetics Salon Consideration Certificate	10
Home Service Permit	2
Satellite Classroom	1
School of Cosmetology	18
Temporary Cosmetology	17

Body Art Facility	121
Body Brander	2
Body Piercer	72
Permanent Color Technician	36
Tattoo Artist	265
Nail Technician	1326
Nail Technology Instructor	13
Nail Technology Salons	119
Nail Technology Salon Consideration Cert.	13
Nail Technology Schools	7

Examination statistics since January 2015:

Nail Technology Exam	32 pass, 23 failed, 4 no show
Nail Technology Instructor	2 pass, 1 fail
Nail Technology jurisprudence-probation	2 passed
Cosmetology	300 passed, 36 failed, 13 no show
Esthetics	77 passed, 16 failed, 2 no show
Cosmetology Instructor	8 passed
Cosmetology jurisprudence-probation	23 passed, 10 failed
Cosmetology jurisprudence-ce	7 passed, 2 failed

9. SERVICE RECOGNITION: Jason Lassek (5 yrs) and Marie Nordboe (10 yrs)

Faltys presented both Lassek and Nordboe plaques in appreciation of their service. Chiles extended her appreciation to Lassek and Nordboe for their contributions to the Board.

1:33 p.m. - Judkins, Lassek, Vierk departed meeting

MOTION: Pettigrew moved, seconded by Newson, to enter into closed session at 1:35 p.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Lucas, Newson, Nordboe, Pettigrew, Rowland (9). Voting nay: None (0). Absent: Judkins, Lassek, Pfeil (3). Motion carried.

1:40 p.m. - Foran departed meeting

1:55 p.m. - Foran entered meeting

2:00 p.m. - Lucas departed meeting

MOTION: Newson moved, seconded by Anderson, to return to open session at 2:02 p.m. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Newson, Nordboe, Pettigrew, Rowland (8). Voting nay: None (0). Absent: Judkins, Lassek, Lucas, Pfeil (4). Motion carried.

Trina Wells – Cosmetologist Reinstatement from Voluntary Surrender

MOTION: Nordboe moved, seconded by Anderson, to recommend offering a probationary license with 2 year probation, to include the same standard terms and conditions as the original 5 year probationary license offer based on new information provided of additional therapy information, children returned to Wells and new sobriety date of 2 years. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Newson, Nordboe, Pettigrew, Rowland (8). Voting nay: None (0). Absent: Judkins, Lassek, Lucas, Pfeil (4). Motion carried.

9. ADJOURNMENT

MOTION: Anderson moved, seconded by Pettigrew, to adjourn. A roll call vote was taken. Voting aye: Anderson, Criswell, Faltys, Foran, Newson, Nordboe, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Judkins, Lassek, Lucas, Pfeil (4). Motion carried.

Faltys declared the meeting adjourned at 2:05 p.m.

Respectfully submitted,

Lyra Faltys, Chairperson
(Secretary position vacant due to end of term on the Board)
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator